

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SEPRACOR, INC.)	
)	
)	
Plaintiff, Counterclaim-)	
Defendant,)	
)	
v.)	Civil Action No. 06-113-KAJ
)	
DEY, L.P. AND DEY, INC.)	
)	
)	
Defendants, Counterclaim-)	
Plaintiffs.)	
)	

SEPRACOR, INC.)	
)	
)	
Plaintiff, Counterclaim-)	
Defendant,)	
)	
v.)	Civil Action No. 06-604-KAJ
)	
DEY, L.P. AND DEY, INC.)	
)	
)	
Defendants, Counterclaim-)	
Plaintiffs.)	
)	

DEY'S MOTION TO CONSOLIDATE

Pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, Defendants Dey, L.P. and Dey, Inc. (collectively "Dey") respectfully request that the Court consolidate for all purposes Civil Action No. 06-113 (KAJ), with the action recently filed against Dey, Civil Action No. 06-604 (KAJ). Dey also requests that papers in the consolidated action hereafter shall be filed and docketed solely in Civil Action No. 06-113 (KAJ).

In support of this motion, Dey relies on Dey's Memorandum in Support of its Motion to Consolidate filed concurrently. Accordingly, Dey respectfully requests that this Court grant its Motion to Consolidate Civil Action No. 06-113 (KAJ) and 06-604 (KAJ) for all purposes including trial. A proposed order and proposed consolidated caption are attached hereto.

ASHBY & GEDDES

/s/ Tiffany Geyer Lydon

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Dated: October 24, 2006
174456.1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SEPRACOR, INC.)	
)	
)	
Plaintiff, Counterclaim-)	
Defendant,)	
)	
v.)	Civil Action No. 06-113-KAJ
)	
DEY, L.P. AND DEY, INC.)	
)	
)	
Defendants, Counterclaim-)	
Plaintiffs.)	

SEPRACOR, INC.)	
)	
)	
Plaintiff, Counterclaim-)	
Defendant,)	
)	
v.)	Civil Action No. 06-604-KAJ
)	
DEY, L.P. AND DEY, INC.)	
)	
)	
Defendants, Counterclaim-)	
Plaintiffs.)	

ORDER

THIS MATTER having been brought before the Court upon the motion of Dey, L.P. and Dey, Inc. ("Dey"), through its counsel to consolidate Civil Action No. 06-133 (KAJ) and Civil Action No. 06-604 (KAJ); and the Court having considered the papers filed on behalf of Dey in support of said motion; and the Court having considered all papers filed in opposition to said motion, and all papers in reply thereto; and the Court having considered the pleadings in this matter; and for other and good cause having been shown,

IT IS on this _____ day of _____, 2006,

ORDERED that Dey's Motion to Consolidate actions is GRANTED, and that Civil Action No. 06-133 (KAJ) and Civil Action No. 06-604 (KAJ) are hereby CONSOLIDATED for all purposes. Papers in the consolidated action hereafter shall be filed and docketed solely in Civil Action No. 06-113 (KAJ) and all filings shall bear the following consolidated caption:

SEPRACOR, INC.)	
)	
)	
Plaintiff, Counterclaim-)	
Defendant,)	
)	
v.)	Civil Action No. 06-113-KAJ
)	(Consolidated)
DEY, L.P. AND DEY, INC.)	
)	
Defendants, Counterclaim-)	
Plaintiffs.)	

United States District Judge

RULE 7.1.1. STATEMENT

Pursuant to 7.1.1 of the Local Rules of the United States District Court for the District of Delaware, I hereby certify that counsel for Defendants Dey, L.P. and Dey, Inc. (collectively “Dey”) has made a reasonable effort to reach agreement with counsel for Sepracor, Inc. on the matters set forth in Dey’s Motion to Consolidate, and that the parties have not been able to reach agreement.

/s/ Tiffany Geyer Lydon

Tiffany Geyer Lydon (I.D. #3950)

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of October, 2006, the attached **DEY'S MOTION TO CONSOLIDATE** was served upon the below-named counsel of record at the address and in the manner indicated:

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VIA FEDERAL EXPRESS

/s/ Tiffany Geyer Lydon

Tiffany Geyer Lydon